



NUCLEAR REGULATORY COMMISSION

[Docket No.72-71; NRC-2021-0212]

DTE Electric Company; Fermi-2

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has issued an exemption to DTE Electric Company (DTE), for Fermi-2 (Fermi 2), Independent Spent Fuel Storage Installation (ISFSI). The exemption allows Fermi 2 to deviate from the timing requirements in Certificate of Compliance (CoC) No. 1014, Appendix A, "Technical Specifications (TS) for the HI-STORM 100 Cask System," Section 5.4, "Radioactive Effluent Control Program," Subsection C related to submission of an annual effluent report.

DATES: The exemption was issued on January 20, 2022.

ADDRESSES: Please refer to Docket ID **NRC-2021-0212** when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- **Federal Rulemaking Website:** Go to <https://www.regulations.gov> and search for Docket ID **NRC-2021-0212**. Address questions about Docket IDs in Regulations.gov to Stacy Schumann; telephone: 301-415-0624; email: Stacy.Schumann@nrc.gov. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- **NRC's Agencywide Documents Access and Management System**

(ADAMS): You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209,

301-415-4737, or by email to PDR.Resource@nrc.gov. The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.

- **NRC's PDR:** You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1-800-397-4209 or 301-415-4737, between 8:00 a.m. and 4:00 p.m. (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Tilda Liu, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 404-997-4730, email: Tilda.Liu@nrc.gov.

SUPPLEMENTARY INFORMATION: The NRC issued an exemption (ADAMS Package Accession No. ML21308A168) to DTE for the Fermi-2 (Fermi 2) ISFSI. By letter dated July 27, 2021 (ADAMS Accession No. ML21208A259) DTE submitted a request to the NRC for an exemption from requirements in Part 72 of title 10 of the *Code of Federal Regulations* (10 CFR). More specifically, DTE requested an exemption from the timing requirement in 10 CFR 72.44(d)(3) which specifies that an annual report be submitted to the NRC regarding effluent releases within 60 days after the end of the 12-month monitoring period for the Fermi 2 ISFSI. The exemption as requested would have permitted DTE to delay submission of the relevant report from on or before March 1, the current deadline, to prior to May 1 of each year. Delaying this submission deadline would allow DTE to align the submittals of the relevant report and the Annual Radioactive Effluent Release Report.

The NRC staff could not grant DTE the exemption as requested because, under 10 CFR 72.13, "Applicability," 10 CFR 72.44(d)(3) does not apply to general licensees such as DTE. That said, under 10 CFR 72.212, DTE must follow the technical specifications (TS) for the spent fuel casks it uses, and the relevant cask's TS require

DTE to submit the 10 CFR 72.44(d)(3) effluent monitoring report. Thus, DTE must make the 10 CFR 72.44(d)(3) report. Consequently, the NRC, on its own initiative, granted DTE an exemption from the applicable requirements such that DTE would receive relief equivalent to the relief it requested. In practice, this means the NRC exempted DTE from 10 CFR 72.212(a)(2), (b)(2), (b)(3), (b)(4), (b)(5)(i), (b)(11), and 72.214 pursuant to 10 CFR 72.7, "Specific exemptions" for the ISFSI.

The exemption granted upon the NRC's own initiative only provides relief from the 60-day requirement so that the annual effluent release report for the Fermi 2 ISFSI may be submitted prior to May 1, rather than on or before March 1, of each year. The granted exemption only changes the due date and not the content of the information that the licensee would provide in the annual report. An analysis of this exemption can be found at the previously cited ADAMS accession number.

Dated: January 24, 2022.

For the Nuclear Regulatory Commission.

Yaira K. Diaz-Sanabria, Chief,
Storage and Transportation Licensing
Branch,
Division of Fuel Management,
Office of Nuclear Material Safety
and Safeguards.

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